



Nevada State Board of Medical Examiners

*** * * MINUTES * * ***

OPEN SESSION BOARD MEETING

Held in the Conference Room at the Offices of the
Nevada State Board of Medical Examiners
1105 Terminal Way, Suite 301, Reno, Nevada 89502

and videoconferenced to

the Conference Room at the Offices of the Nevada State Board of
Medical Examiners/Nevada State Board of Dental Examiners
6010 S. Rainbow Boulevard, Building A, Suite 1, Las Vegas, Nevada 89118

FRIDAY, DECEMBER 6, 2013 – 8:30 a.m.

Board Members Present

Michael J. Fischer, M.D., President
Theodore B. Berndt, M.D., Vice President
Valerie J. Clark, BSN, RHU, LUTCF, Secretary-Treasurer
Beverly A. Neyland, M.D.
Sue Lowden
Bashir Chowdhry, M.D.
Wayne Hardwick, M.D.
Rachakonda D. Prabhu, M.D.

Board Members Absent

Ann Wilkinson

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Staff/Others Present

Douglas C. Cooper, CMBI, Executive Director
Edward O. Cousineau, J.D., Deputy Executive Director
Bradley O. Van Ry, J.D., General Counsel
Erin L. Albright, J.D., General Counsel
Laurie L. Munson, Chief of Administration and Information Systems
Pamela J. Castagnola, CMBI, Chief of Investigations
Lynnette L. Daniels, Chief of Licensing
Donya Jenkins, Finance Manager
Colleen L. Platt, J.D., Deputy Attorney General

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum
- Announcement of Appointment by the Governor of, and Introduction of, New Board Member, Rachakonda D. Prabhu, M.D.

The meeting was called to order by President Michael J. Fischer, M.D., at 8:30 a.m.

Mr. Cousineau took roll call, and all Board members were present with the exception of Allen Wilkinson. Mr. Cousineau announced there was a quorum.

Dr. Fischer introduced new Board member, Rachakonda D. Prabhu, M.D., and Dr. Prabhu provided a brief summary of his background and experience.

Dr. Fischer recognized Chief of Administration and Information Systems Laurie Munson for her long-term service of over ten years and presented her with a service award pin memorializing same.

Mr. Cooper introduced Bonnie Wallen, new Administrative Assistant in the Las Vegas office, to the Board.

Mr. Cooper advised the Board that the Board's Federation of State Medical Boards liaison, Dr. Greg Snyder, will be visiting the Board in June 2014, in conjunction with the June Board meeting. The FBI/DPS Criminal History Information and Fingerprint Audit will take place December 20. In February 2014, the Board will begin its annual financial audit with Kohn & Company, LLP. On December 16, the new Executive Director of the Nevada State Medical Association, Stacy Woodbury, will be visiting the Board to see the offices and meet the staff. Work on the Board's database upgrade will begin this month.

Agenda Item 2

PUBLIC COMMENT

Dr. Fischer asked whether there was anyone in attendance who would like to present public comment.

Daniel Coll, PA-C, stated he wanted to address the Board regarding the Clark County Medical Society proposal for changes to the regulatory language regarding physician assistant supervision. He participated in the November 26 workshop, which was helpful and beneficial. As it stands currently, the language of the proposal is very concerning to practicing physician assistants in the state of Nevada. It would lead to significant increases in barriers in supervision language and administrative responsibilities for the practice of physician assistants. He believes it would lead to significant loss of business and practice opportunities for physician assistants and also ultimately a significant impact on patients' access to care in a state that has been well-established as having very limited access to primary care. He hopes the Board will consider the ultimate end result of the current proposal and asks the Board to reconsider R182-12, which was ultimately delayed in recognition of the APNs' pursuit of independent practice and concerns about redundant language. That regulation was the result of a tremendous effort by members of the Board, the physician assistant community and contributions from the National Academy in changing the language to match national standards without limiting patients' access to care.

Agenda Item 3

APPROVAL OF MINUTES

- September 6, 2013 Board Meeting – Open/Closed Sessions

Dr. Chowdhry moved that the Board approve the Minutes of the September 6, 2013 Board Meeting -- Open/Closed Sessions. Dr. Hardwick seconded the motion. Dr. Prabhu stated he was abstaining from the vote. A vote was taken on the motion and it passed, with all other Board members voting in favor of the motion.

Agenda Item 4

CONSIDERATION AND APPROVAL OF MODEL POLICY ON THE USE OF OPIOID ANALGESICS IN THE TREATMENT OF CHRONIC PAIN, PUBLISHED BY THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.

Mr. Cousineau stated in July 2013, the Federation of State Medical Boards published a new model policy in regards to the use of controlled substances for the treatment of pain. There were not too many substantive changes to the policy itself. NAC 630.187 indicates that if the Board has not objected to the new policy, it basically ratifies or accepts it. Since the Board was going to be discussing changes to the title of the model policy in its regulations, he wanted to go through the perfunctory process of having the Board approve the new model policy on the record.

Discussion ensued regarding the fact that the policy is binding upon the Board's licensees and ways the Board can notify its licensees of the change.

Discussion regarding the requirements under the policy, how they affect the practice of medicine, and how the Board applies the criteria included in the policy when considering potential violations of the Medical Practice Act.

Dr. Berndt moved that the Board adopt the most recent update to the policy. Dr. Neyland seconded the motion and it passed unanimously.

Agenda Item 5

CONSIDERATION AND ACTION REGARDING PROPOSED AMENDMENTS TO
NEVADA ADMINISTRATIVE CODE CHAPTER 630

- (a) Review of Public Comments on, and Consideration of Adoption of, Proposed Amendments to Nevada Administrative Code Chapter 630, Adding Language to NAC 630.530 and NAC 630.740 to Allow Practitioners of Respiratory Care and Perfusionists to Receive Continuing Education Credits for Time Spent Performing Peer Reviews for the Board (R035-13)
- (b) Review of Public Comments on, and Consideration of Adoption of, Proposed Amendments to Nevada Administrative Code Chapter 630, Amending NAC 630.280, NAC 630.500 and NAC 630.700, Incorporating Language That Requires That a Physician Assistant, Practitioner of Respiratory Care or Perfusionist Applicant Is a Citizen of the United States, or Is Lawfully Entitled to Remain and Work in the United States (R036-13)
- (c) Consideration of Amendment to Nevada Administrative Code Chapter 630, Amending NAC 630.187 to Accurately Reflect the Current Title of the Federation of State Medical Boards' Publication, *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*
- (d) Consideration of Amendment to Nevada Administrative Code Chapter 630, Amending NAC 630.230 to Accurately Reflect the Current Title of the Federation of State Medical Boards' Publication, *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain*
- (e) Consideration of Amendments to Nevada Administrative Code Chapter 630, Amending NAC 630.450 and NAC 630.455 to Make the Time Limits for Submission of Requests to the Board for Consideration or Action Under Those Regulations Synonymous With That Established by NAC 630.440

Mr. Cousineau stated the amendments under Items (a) and (b) both went through the workshop and hearing process in October. The changes in Item (a) will allow practitioners of respiratory care and perfusionist licensees to receive continuing education credits for performing peer reviews for the Board, which is already afforded to medical doctor and physician assistant licensees. The maximum is 50% of the requirements for biennial registration.

Dr. Hardwick moved that the Board approve the regulation as written. Mrs. Lowden seconded the motion and it passed unanimously.

Mr. Cousineau stated the changes in Item (b) will bring the requirements for physician assistant, practitioner of respiratory care and perfusionist applicants in line with those already in existence for medical doctor applicants, in that they will be required to provide proof to the Board that they are citizens of the United States or lawfully entitled to remain and work in the United States. No comments were offered at either the workshop or hearing on this amendment or that in Item (a).

Dr. Hardwick moved that the Board approve the regulation as written. Mrs. Lowden seconded the motion and it passed unanimously.

Mr. Cousineau stated that Items (c) and (d) will update the title of the *Model Policy on the Use of Opioid Analgesics in the Treatment of Chronic Pain* in NAC 630.187 and NAC 630.230.

Dr. Berndt moved that the Board authorize staff to proceed with the regulatory adoption process on these two amendments. Dr. Hardwick seconded the motion and it passed unanimously.

Mr. Cousineau explained the changes contemplated in Item (e) would make the time limits for submission of requests to the Board for advisory opinions and declaratory orders under NAC 630.450, and other matters under NAC 630.455, consistent with that set forth in NAC 630.440, which is 30 days prior to the next regularly scheduled Board meeting. Currently, a petitioner can request an advisory opinion 10 days before a Board meeting and can make a request for any other matter to be heard by the board 15 days prior to a meeting, which is administratively and logistically problematic for staff.

Dr. Hardwick moved that the Board authorize staff to proceed with the regulatory adoption process on NAC 630.450 and NAC 630.455, bringing the time limits therein into accordance with NAC 630.440. Dr. Chowdhry seconded the motion and it passed unanimously.

Agenda Item 6

ADJUDICATION IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. LARRY YEE, M.D.*, BME CASE NOS. 12-6816-1 and 13-6816-1

Dr. Yee was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Ms. Platt provided the Board with procedural instruction regarding the adjudication process.

Mrs. Lowden stated it was concerning to her that Dr. Yee had chosen not to appear and speak to the Board when he had been properly served and notified of the meeting.

Ms. Platt explained that, based upon the information provided to the adjudicating Board members in the packet, the Hearing Officer had made recommendations to the Board that there had been a violation of law and had suggested some disciplinary measures. The adjudicating Board members needed to decide whether they agreed there had been a violation and it had been proven based upon what was before them.

Mrs. Lowden stated she agreed with the Hearing Officer's determinations and believed the witnesses who testified were truthful; however, it would have been helpful if Dr. Yee or his representative had been present to defend Dr. Yee. She moved that Dr. Yee engaged in conduct that brings the medical profession into disrepute [Count III]. Dr. Chowdhry seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mrs. Lowden stated she agreed that Dr. Yee willfully failed to comply with an order of the Board and moved that Dr. Yee be found guilty of Count II. Dr. Hardwick seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Mrs. Lowden stated she agreed that Dr. Yee administered, dispensed and prescribed controlled substances in violation of Nevada statute [Count I]. Dr. Chowdhry seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Fischer stated that the adjudicating Board members had found Dr. Yee guilty of Counts I, II and III.

Mr. Van Ry presented the Investigative Committee's recommendations regarding discipline to be imposed in the matter, which included revocation of Dr. Yee's license and that he pay all costs in the amount of \$5,023.23.

Mrs. Lowden moved that the Board revoke Dr. Yee's license to practice and that he pay the costs of \$5,023.23, payable within one year. She then amended her motion to include a written public reprimand. Dr. Hardwick seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Dr. Fischer stated that revocation of Dr. Yee's license was effective as of that day.

Agenda Item 7
REPORTS

(a) Physician Assistant Advisory Committee

Physician Assistant Advisory Committee Member Stephanie Callister, PA-C stated that members of the Advisory Committee had attended the regulation workshop on November 26. Nevada Academy of Physician Assistants (NAPA) representatives were present along with practicing PAs in the state and members of the Clark County Medical Society (CCMS). NAPA met with CCMS representatives in an attempt to resolve concerns from both PAs and MDs regarding proposed changes to the laws governing supervision of physician assistants; however, some PAs present at the meeting voiced concerns that NAPA did not represent the majority of PAs in the state. So the Advisory Committee decided to meet with CCMS representatives and create a survey for physician assistants statewide in an attempt to catch the voice of the majority to attain a resolution to the matter that is amicable to all parties involved. The Advisory Committee will present the survey results to the Board.

Mr. Cousineau inquired about the time frame for receipt of the survey results, and Ms. Callister stated they would hopefully have the results by the next quarterly Board meeting. Mr. Cousineau stated the Board may be considering the matter at its March Board meeting, so it would be good to have the results of the survey in place at that time.

(b) Investigative Committees

- Consideration of Cases Recommended for Closure by the Committees

Dr. Berndt reported that Investigative Committee A met and considered 123 cases. Of those, they authorized the filing of a formal complaint in 9 cases, sent 13 cases out for peer review, issued 38 letters of concern and recommended closure of a total of 52 cases.

Dr. Hardwick moved to accept the report of Investigative Committee A. Dr. Neyland seconded the motion and it passed unanimously.

Dr. Neyland reported that Investigative Committee B met and considered 66 cases. Of those, sent 6 cases out for peer review, requested an appearance in 5 cases, issued 21 letters of concern, referred 4 cases back to investigative staff for further investigation or follow-up and recommended closure of a total of 30 cases.

Dr. Prabhu moved to approve for closure the cases recommended by Investigative Committee B. Dr. Chowdhry seconded the motion and it passed unanimously.

(c) Investigations Division

(1) Status of Investigative Caseload

Ms. Castagnola reported the current number of open investigative cases was 428 and the number of cases per investigator was 74. There were 27 peer reviews in the field and 12 peer reviews awaiting assignment.

(2) Quarterly Compliance Report

Ms. Castagnola reported that a total of \$46,584.91 in costs and \$4,100.16 in fines had been collected as of the end of the third quarter of 2013, for a total of \$50,685.07. To date, an additional \$13,388.77 in costs and \$1,300.00 in fines had been collected. The amounts currently outstanding to the Board were \$234,007.60, in costs and \$66,049.84 in fines, for a total of \$300,057.44.

Dr. Prabhu moved to accept the Investigations Division reports. Dr. Neyland seconded the motion and it passed unanimously.

(d) Nevada State Medical Association Report

Dr. Fischer stated that Stacy Woodbury was not present.

Dr. Hardwick stated that Larry Matheis had retired, and Stacy Woodbury will do very well.

(e) Clark County Medical Society Report

Loretta Moses, Executive Director of the Clark County Medical Society (CCMS), reported that CCMS had attended the regulation workshop on November 26, that there will be some follow-up meetings with the Physician Assistant Advisory Committee and they will be working on getting the survey together, getting it out and getting the information to the Board. Additionally CCMS has put together a series of town hall meetings. In November, they had Jennifer Freshman from Nevada Medicaid, which was very well attended. On January 15, they will have Scott Kipper, and in February, Mayor Goodman will be talking about the Las Vegas Medical District and health and wellness tourism. CCMS has also been working with the Las Vegas Business Press to put together a quarterly publication which will be called Business in Medicine, and they are planning to publish the first issue in March.

Agenda Item 8

CONSIDERATION AND ACCEPTANCE OF VOLUNTARY SURRENDER OF MEDICAL LICENSE OF JOHN TAFEL, M.D., LICENSE NO. 14116

Dr. Tafel was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Mr. Van Ry explained that this action arose from an action by the Texas Medical Board whereby Dr. Tafel was temporarily suspended and surrendered his authority to write prescriptions in Texas. As a result, on March 25, 2013, the Investigative Committee summarily suspended Dr. Tafel's license to practice medicine, and a formal Complaint was filed on May 2, 2013. After discussing the matter with Dr. Tafel, Dr. Tafel indicated willingness to voluntarily surrender his medical license.

Dr. Prabhu moved that the Board accept the voluntary surrender of Dr. Tafel's medical license. Mrs. Lowden seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 9

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. RICHARD MAXWELL, M.D.*, BME CASE NO. 13-38462-1

Dr. Maxwell was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Ms. Albright outlined the facts of the case and the allegations contained in the Complaint filed against Dr. Maxwell. She stated that following the filing of the Complaint, Dr. Maxwell placed his license in inactive status. She then described the terms of the proposed Settlement Agreement.

Dr. Neyland moved that the Board approve the Settlement Agreement. Mrs. Lowden seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 10

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. DOUGLAS SEIP, M.D.*, BME CASE NO. 13-6513-1

Dr. Seip was not present. Jessica Taylor, Esq. was present in Las Vegas as legal counsel for Dr. Seip.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Ms. Albright outlined the facts of the case, the allegations contained in the Complaint filed against Dr. Seip and the terms of the proposed Settlement Agreement.

Dr. Neyland moved that the Board accept the Settlement Agreement. Dr. Hardwick seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 11

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. FRED FRICKE, JR., M.D.*, BME CASE NO. 13-4742-1

Dr. Fricke was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Ms. Albright outlined the allegations contained in the Complaint filed against Dr. Fricke and the terms of the proposed Settlement Agreement.

Dr. Neyland moved that the Board accept the Settlement Agreement. Mrs. Lowden seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 12

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. SEAN SU, M.D.*, BME CASE NO. 13-11344-1

This item was not discussed at the meeting.

Agenda Item 13

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KOFI SARFO, M.D.*, BME CASE NO. 12-29257-1

Dr. Sarfo was not present. Jacob Hafter, Esq. was present in Las Vegas as legal counsel for Dr. Sarfo.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Mr. Van Ry outlined the allegations contained in the Complaint filed against Dr. Sarfo and the terms of the proposed Settlement Agreement.

Dr. Neyland moved that the Board approve the Settlement Agreement. Mrs. Lowden seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 14

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. MAURICE GREGORY, JR., M.D.*, BME CASE NO. 12-7067-1

Dr. Gregory was not present. Jacob Hafter, Esq. was present in Las Vegas as legal counsel for Dr. Gregory.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Mr. Van Ry outlined the allegations contained in the First Amended Complaint filed against Dr. Gregory and the terms of the proposed Settlement Agreement.

Mrs. Lowden moved that the Board accept the Settlement Agreement. Dr. Neyland seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 15

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. ANGELA LORENZO, PA-C*, BME CASE NO. 12-28540-2

Ms. Lorenzo was not present. Jacob Hafter, Esq. was present in Las Vegas as legal counsel for Ms. Lorenzo.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Mr. Van Ry outlined the allegations contained in the Complaint filed against Ms. Lorenzo and the terms of the proposed Settlement Agreement.

Mrs. Lowden moved that the Board accept the Settlement Agreement. Dr. Chowdhry seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 16

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KARL FAZEKAS, M.D.*, BME CASE NO. 10-4909-1

Dr. Fazekas was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Mr. Cousineau outlined the allegations contained in the Complaint filed against Dr. Fazekas and the terms of the proposed Settlement Agreement.

Dr. Hardwick moved that the Board accept the Settlement Agreement. Dr. Fischer seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 17

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CHRISTOPHER PATIN, M.D.*, BME CASE NO. 13-12350-1

Dr. Patin was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Ms. Albright outlined the allegations contained in the Complaint filed against Dr. Patin and the terms of the proposed Settlement Agreement.

Dr. Berndt moved that the Board accept the Settlement Agreement. Dr. Prabhu seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 18

CONSIDERATION OF SETTLEMENT AGREEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. CARL LEVISEUR M.D.*, BME CASE NO. 12-9474-1

Dr. Levisieur was not present.

Dr. Fischer named the adjudicating Board members who would be considering the matter.

Ms. Albright outlined the allegations contained in the Complaint filed against Dr. Levisieur and the terms of the proposed Settlement Agreement.

Dr. Berndt moved that the Board accept the Settlement Agreement. Ms. Clark seconded the motion and it passed unanimously, with all adjudicating Board members voting in favor of the motion.

Agenda Item 19

EXECUTIVE STAFF/STAFF REPORTS

- Consideration and Approval of Request for Board Member/Staff Attendance at Educational Meetings

Mr. Cooper described the two requests for Board member/staff training that were before the Board for approval – The Administrators in Medicine (AIM) 2014 Annual Meeting and the Federation of State Medical Boards (FSMB) 2014 Annual Meeting.

Discussion ensued regarding who should attend the FSMB Annual Meeting. All Board members in attendance indicated a desire to attend.

Dr. Berndt moved that the Board approve attendance at the AIM 2014 Annual Meeting by Mr. Cooper and attendance at the FSMB 2014 Annual Meeting by Mr. Cooper, Mr. Cousineau, Ms. Daniels and all Board members who want to attend. Ms. Clark seconded the motion, and it passed unanimously.

Agenda Item 20

LEGAL REPORTS

- Board Litigation Status

Ms. Albright reported there were currently 92 cases in the Legal Division, 11 of which were presented to the Board for action at this meeting. There were 13 cases pending the CMT process, 14 cases awaiting filing of a formal complaint, and 43 cases in which a formal complaint had been filed that were pending hearings, 4 of which were filed subsequent to the last Board meeting. She then provided a summary and update regarding the various civil court cases in which the Board is involved. She stated 67 letters of concern were approved by the Investigative Committees at their November meetings.

Dr. Fischer asked how the Board could notify the State Bar in the event appeals are found to be frivolous, and Ms. Albright indicated the Board could file a complaint with the State Bar.

Agenda Item 21

LICENSURE RATIFICATION

- Ratification of Licenses Issued, Reinstatements of Licensure and Changes of Licensure Status Approved Since the September 6, 2013 Board Meeting

Dr. Prabhu moved that the Board ratify the licenses issued, reinstatements of licensure and changes of licensure status approved since the September 6, 2013 Board Meeting. Dr. Neyland seconded the motion, and it passed unanimously.

Agenda Item 22

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

22(a) Jeffrey R. Unger, M.D.

Dr. Fischer asked Dr. Unger whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Fischer questioned Dr. Unger regarding his affirmative responses to Questions 12 and 12a on his application for licensure.

Dr. Unger described the circumstances surrounding the three cases of malpractice that had been filed against him which resulted in settlements of over \$100,000.

Dr. Fischer questioned Dr. Unger regarding his affirmative responses to Question 28 and 31 on his application for licensure.

Dr. Unger described the circumstances surrounding revocation of his Nevada medical license in 2000 for failure to report to the Board that he had been placed on probation by the California Medical Board, which probation was related to one of the cases of malpractice that had been filed against him.

Dr. Fischer asked Dr. Unger what he planned to do if granted a license in Nevada, and Dr. Unger explained that he consults in clinical trials with the FDA for treatment of patients with diabetes and the revocation of his previous Nevada license is a blemish on his record which prevents him from participating in some major clinical trials with the FDA. Obtaining a Nevada license would improve his status with the FDA and allow him to participate more extensively in these trials.

Dr. Fischer moved that the Board grant Dr. Unger's application for licensure. Dr. Hardwick seconded the motion and it passed unanimously.

22(b) Cam-Tu L. Jones, M.D.

Dr. Jones was present in Las Vegas. Jon Hunt, Esq. was present with Dr. Jones as her legal counsel.

Dr. Fischer asked Dr. Jones whether she wanted her application to be considered in closed session, with the public being excluded, and she said that she did.

Dr. Berndt moved that the Board go into closed session pursuant to NRS 241.030. Ms. Clark seconded the motion and it passed unanimously.

Upon returning to open session, Dr. Berndt moved that the Board grant Dr. Jones' application for licensure under the terms in the proposed Order before the Board, that she communicate with the Board should she want to go beyond that, and that she maintain board certification in the specialty of radiation oncology. Dr. Neyland seconded the motion.

Mr. Cousineau stated that Dr. Jones will have to come before the Board after nine months to see whether the Board is inclined to lift the conditions, continue them or alter them in some manner. Dr. Jones stated she was aware of that.

A vote was taken on the motion and it passed unanimously.

22(c) Deming Chau, M.D.

This item was not discussed at the meeting.

22(d) Zelalem Tesfay, M.D.

Dr. Fischer asked Dr. Tesfay whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Fischer explained that Dr. Tesfay was applying for licensure by endorsement because he had not passed a major examination in the past 10 years. He agreed to undergo a peer review, and the Board could issue him a license if he successfully completes the peer review.

Dr. Hardwick asked Dr. Tesfay if he planned to take the boards in his specialty, and Dr. Tesfay stated he did not at this time.

Dr. Fischer asked what Dr. Tesfay planned to do if granted a medical license in Nevada, and Dr. Tesfay explained he may take a part-time job to supplement his income in his retirement, and may take a part-time job working in clinics in the interim as well.

Dr. Chowdhry questioned Dr. Tesfay regarding his affirmative responses to Questions 12 and 12a on his application for licensure.

Dr. Tesfay described the circumstances surrounding the one malpractice case filed against him that resulted in a settlement.

Dr. Fischer moved that the Board grant Dr. Tesfay's application for licensure contingent upon successful completion of a peer review, at his expense.

Mr. Cousineau explained that the Board was not going to invoke its right to grant Dr. Tesfay a license to practice medicine by endorsement. The Board was, however, going to grant him a license to practice medicine contingent upon successful completion of a peer review. Dr. Chowdhry seconded the motion and it passed unanimously.

22(e) Gary D. Motykie, M.D.

Dr. Fischer asked Dr. Motykie whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did.

Dr. Neyland moved that the Board go into closed session pursuant to NRS 241.030. Dr. Chowdhry seconded the motion and it passed unanimously.

Upon returning to open session, Mrs. Lowden moved that the Board grant Dr. Motykie's application for licensure. Dr. Chowdhry seconded the motion and it passed, with Dr. Hardwick voting against the motion and the remaining Board members voting in favor of the motion.

22(f) Joseph A. de Leon, CCP

This item was not discussed at the meeting.

22(g) Melvin B. Carter, M.D.

Dr. Fischer asked Dr. Carter whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Ms. Clark questioned Dr. Carter regarding his affirmative responses to Questions 12 and 12a on his application for licensure.

Dr. Carter described the circumstances surrounding the two cases of malpractice that had been filed against him.

Ms. Clark questioned Dr. Carter regarding his affirmative response to Question 13 on his application for licensure.

Dr. Carter explained the circumstances surrounding his arrest in 1993 for use of a controlled substance and his subsequent positive test for the same controlled substance in 1999, which led to his attendance at a three-month treatment program, which he said enabled him to change his life and stop using, and he has been in recovery ever since.

Ms. Clark asked Dr. Carter what he planned to do if granted a license in Nevada, and Dr. Carter stated he had been offered a position to practice internal medicine at the hospital in Mesquite.

Dr. Berndt asked Dr. Carter whether he was currently enrolled in a monitoring program, and Dr. Carter stated he was not; that he had been released from the Diversion Program in California in 2004.

Ms. Clark moved that the Board grant Dr. Carter's application for licensure. Dr. Prabhu seconded the motion and it passed unanimously.

22(h) Mohamed O. Saleh, M.D.

This item was not discussed at the meeting.

22(i) Jon E. Ekstrom, M.D.

Dr. Fischer asked Dr. Ekstrom whether he wanted his application to be considered in closed session, with the public being excluded, and he said that he did not.

Dr. Fischer questioned Dr. Ekstrom regarding his affirmative responses to Questions 12 and 12a on his application for licensure.

Dr. Ekstrom described the circumstances surrounding the three cases of malpractice that had been filed against him.

Dr. Prabhu asked Dr. Ekstrom what he planned to do if granted a license in Nevada, and Dr. Ekstrom stated he had no immediate plans to practice in Nevada, but down the road it may make more sense geographically for him to practice here.

Dr. Hardwick moved that the Board grant Dr. Ekstrom's application for licensure. Dr. Neyland seconded the motion and it passed unanimously.

Agenda Item 23

QUARTERLY UPDATE ON FINANCES

Ms. Jenkins summarized the information contained in the Balance Sheet for the third quarter of 2013. She explained that the majority of the Board's assets are held in checking, savings and CDs. It is currently a large figure because the Board collects its monies every two years through renewals, and this was a renewal year. This includes the money the Board has for its budget over the next two years. She stated the "Total Other Current Liabilities" is the amount of money the Board is projected to use that is deferred over the next biennium until renewals take place again. We want to make sure this figure is smaller than what the Board is holding in its assets. This shows the Board has not spent beyond its budget, beyond the assets it is holding, that it is keeping a very conservative line and not spending ahead of where it needs to be because it needs to conserve the cash over two years. The "Total Equity" is the number that shows what the Board is holding in reserve.

Ms. Jenkins then highlighted the various sections of the Profit and Loss Budget vs. Actual for the third quarter of 2013. She explained the income was 9% ahead of what was projected to be recognized during the quarter as income. The income for registration fees is where the majority of the Board's income lies, and was also 9% over budget. The rest of the income was in line with what we expected. Personnel was over budget by 4.7% because of the changes that were considered and approved at the last Board meeting regarding a cost-of-living adjustment for the staff. General and administrative expenses were 98% of budget, so they were right at what was budgeted for the year. The only figure that seems particularly out of line is Account 531, investigative costs. These are costs for peer reviews and medical reviews, and because the Board's caseload is so high right now, the expense is high, but that was balanced out by other savings in the budget, so the Board was right on at about 98%. The Board's interest is almost 26% above budget, as the rates have been slightly higher this year.

Mr. Cooper pointed out that the number in Account 531 has a domino effect on other costs, such as hearing officer costs. When there are more peer reviews, more medical reviews, more cases, there are other areas that are going to go up. With more medical reviews, there is also a little bump in the staff expense because Medical Reviewer hours go up.

Discussion ensued regarding whether the Board was appropriately staffed right now, or whether additional staff may be needed.

Dr. Berndt stated he was interested in receiving information regarding a running average of what percent of cases go to peer review, because it is a costly issue, and he would like to see how the current number compares with that historically.

Mr. Cooper stated he thought the number of peer reviews the Board is getting for the number of cases that are going through is probably pretty steady, and staff would prepare the requested report.

Ms. Castagnola stated recently the number of peer reviews had been holding steady, but the number had gone down from years past because all peer reviews now have to be approved by the Investigative Committees; cases are not immediately sent to peer review based solely on the Medical Reviewer's recommendation, as in the past.

Discussion ensued regarding how the reviews being done by the Medical Reviewers have improved.

Dr. Hardwick moved that the Board accept the report. Dr. Chowdhry seconded the motion and it passed unanimously.

Agenda Item 24

CONSIDERATION AND ADOPTION OF BUDGET FOR FISCAL YEAR 2014

Ms. Jenkins outlined the proposed budget for Fiscal Year 2014. She explained in the past staff used an average of the last four years in order to project income figures, which created a very conservative figure and served the Board well for the last few budgets. This year, in Category 401, registration fees for medical doctors, staff decided to use a three-year average instead, because it brought this particular income item closer to actual. This was really the only change in the income from the previous year. Because it is not a renewal year, there are a few changes in the last few income items, such as renewal document fees and credit card fees. She stated expenses for personnel were budgeted a little higher than the previous year. Staff looked at an increase of about 5% across the board in order to accommodate continuing staffing needs in the different divisions. For the employee health insurance, staff used a standard for the industry of 12%. Staff used much of the same figures from the year before for many of the remaining expense items, as the Board has trended very well over the last few years with these figures. The only place staff looked at using a different number was in adding \$10,000 to Account 531, for peer reviews and medical reviews, as there has been an upper trend in expenses in this area. She then outlined the equipment purchases proposed in the budget. She stated the interest figure is the same as last year, and was based on the Board's rate of returns from its CDs. The net income figure is what the Board expects to add to its reserves in the budget year.

Dr. Hardwick moved that the Board adopt the budget for Fiscal Year 2014. Dr. Chowdhry seconded the motion, and it passed unanimously.

Agenda Item 25

REPORT CONCERNING LICENSING TIME FRAMES AND GENERAL REQUIREMENTS

Dr. Fischer commended the Licensing Division staff for all of their work in preparing this information to help the Board understand how it is doing compared to the rest of the country.

Mr. Cooper explained where and how the information used in preparing the report was obtained.

Ms. Daniels explained the Board offers many types of licensure for medical doctors, as well as licensure for three other disciplines, and then listed those available for medical doctors. She stated each of these license types has unique requirements, but the most common licenses applied for are unrestricted and endorsement licenses. She then explained license by endorsement in Nevada and stated that from inquiries with neighboring states, it was discovered that each board may have different statutory requirements for licensure by endorsement. It also revealed Nevada has very appealing endorsement language. It is vague enough to allow anyone with a medical license in the U.S. to apply for licensure and also

provides the ability for the President and Executive Director of the Board, between meetings, to review and/or approve these candidates and/or allows the full Board to review and/or approve endorsement applicants. Many neighboring Boards have very specific endorsement laws and they apply only to those applicants who meet high-threshold requirement criteria.

Ms. Daniels then explained the statistics contained in the various charts provided as part of the report. With respect to state-specific requirements for initial licensure, there are two criteria that states are required to look at. The first is minimum post-graduate training requirements. Nevada does not have different post-graduate training requirements for U.S. and international medical graduates. The other consideration is the USMLE. All state medical boards recognize and utilize the USMLE. Nevada's requirements pertaining to the USMLE follow the recommendations from the Federation of State Medical Boards (FSMB) and are similar to other states. Beyond these requirements, each state is unique in what is required for licensure.

With respect to the chart showing general licensing times by state, Ms. Daniels stated this Board counts the number of calendar days it takes to obtain licensure from the date the fees are received by the Board to the date the license is issued. She then explained the various factors that influence the time it takes to obtain licensure. She stated this Board issues licenses administratively on a daily basis and only those files with diverse or complicated issues go to a panel of the Board or the full Board. The Board licensing efforts are focused on quickness, with no sacrifice to accuracy or efficiency.

Ms. Daniels explained that in obtaining information for this presentation, staff inquired of the FSMB as to whether it could provide states that are closest to Nevada in terms of the number of licensed physicians. With respect to the charts showing those states similar in state-specific licensing requirements as well as in population, she explained how Nevada has revised its USMLE requirements over the years as well as its current requirements. With respect to the chart showing similar population state-specific licensing times, Ms. Daniels explained the licensing times for this Board are running between 14 and 60 days, and in comparison with the other states, this Board is doing rather well.

Ms. Daniels then directed the Board's attention to the chart showing the western state-specific requirements for initial licensure, and explained the requirements of other states are very similar to those of this Board. With respect to western state-specific licensing times, she stated that when compared with its neighbors, Nevada is issuing licenses in a timely manner. She explained the graph showing the licensing times for each month over the last 14 months, and stated that you take the monthly average over the past 14 months, the licensing time would be exactly 60 days.

Discussion ensued regarding the statistics. Dr. Fischer stated it appears this Board is doing well and is on track.

Dr. Berndt stated he was convinced from this report that the reason Nevada has the lowest doctor-to-population ratio is not related to the licensing process. This Board does a good, thorough and timely job.

Discussion ensued regarding how telemedicine licensure may change in the future and regarding issues related to jurisdiction over those practicing telemedicine between states.

Discussion ensued regarding the lack of adequate residency and fellowship program slots for medical school graduates in Nevada.

Discussion ensued regarding whether offering an opportunity to pay a fee to expedite the licensing process, as some other types of licensing Boards do, is something the Board would like to consider. Mr. Cousineau explained that obtaining all the information from the applicants is what usually holds up the process in those cases where licensure takes longer, so it would not be possible to expedite the process by paying an extra fee.

Dr. Chowdhry moved that the Board approve the report. Dr. Hardwick seconded the motion and it passed unanimously.

Agenda Item 26

STAFF COMMENTS/UPDATES

Mr. Cooper stated the Board was still in need of a liaison to the Clark County Medical Society.

Agenda Item 27

MATTERS FOR FUTURE AGENDA

Mr. Cooper said in March, staff will provide the peer review stats that Dr. Berndt requested. Additional items to be discussed at future meetings are review and approval of a new policy and procedure manual, the annual review and discussion of professional competency of staff other than the Executive Director in March, followed by the Executive Director's evaluation in June.

Agenda Item 28

PUBLIC COMMENT

Dr. Fischer asked whether there was anyone in attendance who would like to present public comment. No public comment was received.

ADJOURNMENT

Dr. Berndt moved to adjourn. Dr. Chowdhry seconded the motion and it passed unanimously. Dr. Fischer adjourned the meeting at 2:12 p.m.

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